

# HOUSE . . . . . No. 3869

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Vincent A. Pedone**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to bottled water.

PETITION OF:

NAME:

Vincent A. Pedone

DISTRICT/ADDRESS:

15th Worcester

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO BOTTLED WATER.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 10A of chapter 94 of the General Laws, as so appearing, is hereby amended by adding the following sentence:-

All permits issued by a local board of health shall be subject to review and approval by the department of public health subject to sections 10A to 10E1/2 inclusive.

SECTION 2. Section 10B of chapter 94, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:-

The fee for each such permit and for each annual renewal thereof shall be determined annually by the commissioner of administration under the provision of section 3B of chapter 7; provided, that no such fee shall be less than \$1,000.

SECTION 3. Chapter 94 is hereby amended by inserting after section 10B the following section:-

Section 10B1/2. (a) As a condition of licensure, each person permitted to manufacture, bottle or sell water intended for human consumption, shall annually prepare a bottled water report and shall, upon request, make that report available to each customer.

(b) The bottled water report shall include, but not be limited to, all of the following:

(1) The source of the bottled water, consistent with applicable state and federal law and regulations.

(2) A brief and plainly worded definition of the terms "statement of quality," "maximum contaminant level," "primary drinking water standard," and "public health goal."

(3) A brief description of the treatment process.

(4) A reference to the United States Food and Drug Administration Web site that provides product recall information.

(5) The bottled water company's address and telephone number that enables customers to obtain further information concerning contaminants and potential health effects.

(6) Information on the levels of unregulated substances, if any, for which water bottlers are required to monitor pursuant to state or federal law or regulation.

(7)(i) The following statement: "Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the United States Food and Drug Administration, Food and Cosmetic Hotline (1-888-723-3366)."

(ii) If the telephone number for the United States Food and Drug Administration, Food and Cosmetic Hotline changes, the statement shall be updated to reflect the new telephone number.

(8) The following statement: "Some persons may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons, including, but not limited to, persons with cancer who are undergoing chemotherapy, persons who have undergone organ transplants, persons with HIV/AIDS or other immune system disorders, some elderly persons, and infants can be particularly at risk from infections. These persons should seek advice about drinking water from their health care providers. The United States Environmental Protection Agency and the Centers for Disease Control and Prevention guidelines on appropriate means to lessen the risk of infection by cryptosporidium and other microbial

contaminants are available from the Safe Drinking Water Hotline (1-800-426- 4791)."

(9) The following statement: "The sources of bottled water include rivers, lakes, streams, ponds, reservoirs, springs, wells and municipal water supplies. As water naturally travels over the surface of the land or through the ground, it can pick up naturally occurring substances as well as substances that are present due to animal and human activity. Substances that may be present in the source water include any of the following: (1) Inorganic substances, including, but not limited to, salts and metals, that can be naturally occurring or result from farming, urban stormwater runoff, industrial or domestic wastewater discharges, or oil and gas production. (2) Pesticides and herbicides that may come from a variety of sources, including, but not limited to, agriculture, urban stormwater runoff, and residential uses. (3) Organic substances that are byproducts of industrial processes and petroleum production and can also come from gas stations, urban stormwater runoff, agricultural application, and septic systems. (4) Microbial organisms that may come from wildlife, agricultural livestock operations, sewage treatment plants, and septic systems. (5) Substances with radioactive properties that can be naturally occurring or be the result of oil and gas production and mining activities."

(10) The following statement: "In order to ensure that bottled water is safe to drink, the United States Food and Drug Administration and the State Department of Public Health prescribe regulations that limit the amount of certain contaminants in water provided by bottled water companies."

(11)(i) The following statement, if nitrate ( $\text{NO}_3$ ) levels above 23 parts per million but below 45 parts per million (the Maximum Contaminant Level for nitrate ( $\text{NO}_3$ )) are detected: "Nitrate in drinking water at levels above 45 mg/L is a health risk for infants of less than six months of age. These nitrate levels in drinking water can interfere with the capacity of the infant's blood to carry oxygen, resulting in a serious illness. Symptoms include shortness of breath and blueness of the skin. Nitrate levels above 45 mg/L may also affect the ability of the blood to carry oxygen in other individuals, including, but not limited to, pregnant women and those with certain specific enzyme deficiencies. If you are caring for an infant, or

you are pregnant, you should ask advice from your health care provider."

(ii) If the nitrate disclosure requirements for municipal water suppliers are revised by the department of public health, this statement shall be updated to reflect the revision.

(12)(i) The following statement, if arsenic levels above 5 ppb, but below 10 ppb (the Maximum Contaminant Level for arsenic), are detected: "Arsenic levels above 5 ppb and up to 10 ppb are present in your drinking water. While your drinking water meets the current EPA standard for arsenic, it does contain low levels of arsenic. The standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. The department of public health continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects, including, but not limited to, skin damage and circulatory problems."

(ii) If the arsenic disclosure requirements for municipal water suppliers are revised by the department of public health, this statement shall be updated to reflect the revision.

(13) A full disclosure of any exemption, variance or waiver granted to the bottler by the department of public health, including an explanation of reasons for each exemption, variance or waiver and the date of the exemption, variance or waiver.

SECTION 4. Section 10D1/2 of chapter 94 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

All persons permitted to manufacture, bottle or sell water intended for human consumption under section 10A or 10B shall, at least weekly, cause to be tested by a laboratory certified as provided herein, the water contained in their finished bottled water product. Such tests shall be reported to the department of public health on a quarterly basis.

SECTION 5. Chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after section 10D1/2 the following section:-

Section 10D3/4. The department of public health shall develop and maintain a procedure for the recall of bottled water for each bottler and each person who sells or distributes bottled water which such bottler, seller or distributor knows or has reason to believe may adversely affect the safety of the public. Such procedure shall include public notification and documentation of the terms and conditions of any recall.

SECTION 6. Section 10E of chapter 94 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:-

The department of public health shall make rules and regulations regarding the removal of unpermitted finished products from retail stores and shall impose fines and penalties for the failure to remove such products.

SECTION 7. Chapter 94 of the General Laws is hereby amended by striking out section 10E1/2 and inserting in place thereof the following section:-

Section 10E1/2. (a) The state department of public health shall establish rules and regulations for water standards and labeling requirements for finished bottled water products which meet, at a minimum, the labeling requirements and quality standards set forth in this section for bottled water products.

(b) Each finished bottled water product sold at retail or wholesale in the commonwealth in a beverage container shall include a label, to be affixed to each bottle or container before it leaves the plant. The label shall be printed in English, in legible type which shall be in contrast to typography, layout, or color, with other printed matter on the label, cap, or container. Each label shall show:

(1) the type of water, for water coming from springs: "spring water", for artesian or pumped water taken from the ground, from drilled wells or approved dug wells: "well water", for a municipal water supply

108 source, the name of the municipal supply, such as “municipal water supply”, for bottled waters identified  
109 on the label as being distilled, the type of source water need not be shown;

110 (2) the address and location of the bottling factory or corporate offices;

111 (3) net contents or capacity of the container;

112 (4) the assigned department of public health permit number, abbreviations are limited to “MADPH Cert.  
113 #000”;

114 (5) where sodium content information is provided, a statement of the number of milligrams of sodium in a  
115 specific serving and the net quantity or measure of each serving shall be placed on the label; and

116 (6) a clear and conspicuous statement that informs consumers about how to access water quality  
117 information contained in the bottled water report required by section 10B1/2.

118 (c) Any bottled water sold in the commonwealth shall, at a minimum, conform to the standards  
119 for municipal water supply quality. These standards shall, at a minimum, include the following:

120 (i) maximum microbiological contaminant levels;

121 (ii) appropriate monitoring requirements and analytical methods;

122 (iii) inorganic chemical maximum contaminant levels;

123 (iv) monitoring for sodium;

124 (v) control of lead and copper;

125 (vi) compliance with secondary maximum contaminant level and public notification for fluoride;

126 (vii) monitoring for perchlorate;

127 (viii) monitoring for synthetic organic chemicals;

- 128 (ix) maximum contaminant levels for volatile organic compounds;
- 129 (x) monitoring for unregulated inorganic and organic chemicals;
- 130 (xi) secondary chemical standards;
- 131 (xii) disinfection byproducts, disinfectant residuals and disinfection byproduct precursors;
- 132 (xiii) maximum turbidity contaminant levels; and
- 133 (xiv) maximum radionuclide contaminant levels.